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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,280

01/04/2006

Keiji Kashima

CU-4631 BWH

6386

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER

ANDERSON, GUY G

ART UNIT

PAPER NUMBER

2883

MAIL DATE

DELIVERY MODE

07/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,280	Applicant(s) KASHIMA ET AL.	
	Examiner Guy G. Anderson	Art Unit 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,27,28,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 27-28,32-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/5/2006 & 9/15/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

- 1.1 Applicant's election without traverse of Species I and K in the reply filed on 3/9/2009 is acknowledged.
- 1.2 Claims 29-31 and 34-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/9/2009.
- 1.3 Applicant has amended claim 28 to depend from claim 27, thus allowing claim 28 to be examined as a member of provisionally elected Species I.
- 1.4 Applicant argued that claim 33 is an aspect of claim 32 and not a separate species. Therefore, examiner will find that any prior art with either a tilted helix or a non tilted helix will read on both claims 32 and 33.

Response to Arguments

- 2.1 In response to the non final rejection mailed 7/10/2008, applicant argued in the response received 10/9/2008 that the prior art cited (US-6912030 to Coates) did not read on the limitation "a selective reflected wavelength of a selective reflected light of the cholesteric structure is shorter than a wavelength of an incident light."
- 2.2 Examiner disagrees. Coates discloses a prior art reference GB patent 2315072 at Col. 6, lines 27-35 that describes a cholesteric film with a small helical pitch that reflects UV light. Therefore all of Claim 8's limitations are disclosed in a single reference.

Response to Amendment

Claim Rejections - 35 USC § 112

- 3.1 Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim limitation "wherein a selective reflected wavelength...selective reflected light" is unclear. Examiner suggests that a better phrasing would be "wherein a selected reflected wavelength...selected reflected light"

Claim Rejections - 35 USC § 102

- 4.1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 4.2 **Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by US-6912030 to Coates.**

Regarding claim 8, Coates discloses an optical compensator and LC Display comprising/wherein:

8) A retardation layer, which functions as a negative C plate, comprising a cholesteric structure which is fixed in a range that its helical pitch is 1 pitch or more, in which a plurality of minute units (domains) having the cholesteric structure exist and further wherein a selective reflected wavelength of a selective reflected light of the cholesteric structure is shorter than a wavelength of an incident light.

[Abstract, Col. 7, lines 30-40, Col. 10, lines 4-67, Col. 11, lines 1-15, Col. 12, lines 38-50, Col. 6, lines 27-35.]

Claim Rejections - 35 USC § 103

- 5.1 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 5.2 Claims 27-28 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over **US-6912030 to Coates.**

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Regarding claims 27-28 and 32-33, Coates does not specifically disclose a major axis of an inscribed ellipse being 40um or less or being the same as shorter than a wavelength of incident light, nor does Coates disclose specifically tilted helix of a negative C plate. However, Coates does disclose that tilt angles of the helix in O and A plates can be varied from 0-360 degrees [Col. 7, lines 1-30] and Coates also discloses that a helical pitch in the range of 50-250nm is well known in the art. [Col. 7, lines 1-30] Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form a structure with the limitations of claims 27-28 and 32-33 using Coates as a teaching reference in order to create a UV polarizer.

Conclusion

- 5.3 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 5.4 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
- 5.5 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy G. Anderson whose telephone number is 571.272.8045. The examiner can normally be reached on Tuesday-Saturday 1400-2200.
- 5.6 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571.272.2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
- 5.7 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Guy G Anderson/
Examiner, Art Unit 2883

/Frank G Font/
Supervisory Patent Examiner, Art Unit 2883

July 5, 2009